

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 L-03 TRSE-00 OPIC-06 STR-07

CIAE-00 INR-10 NSAE-00 /047 W

-----103023 241729Z /50

P 241704Z MAY 78

FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC PRIORITY 2146

USDOC WASHDC PRIORITY

UNCLAS MOSCOW 11630

STATE FOR EUR/SOV AND L/EUR

USDOC FOR BEWT/TDAD AND BEWT/USSR

E.O.11652: N/A

TAGS: EEWT, EGEN, ETRD, UR

SUBJECT: TAXES ON WESTERN FIRM INCOME EARNED IN USSR

REF: (A) USDOC 9366, (B) STATE 106973

1. EMBASSY IS UNAWARE OF ANY INSTANCE IN WHICH AN AMERICAN OR FOREIGN FIRM HAS BEEN REQUIRED TO PAY TAXES TO SOVIET GOVERNMENT ON PROFITS EARNED FROM COMMERCIAL ACTIVITIES IN USSR.

2. AS TO LEGAL OBLIGATIONS OF U.S. FIRMS TO PAY TAXES IN USSR, WE SUGGEST THAT DEPARTMENTS LEGAL ADVISER (L) BE REQUESTED TO PROVIDE AUTHORITATIVE COMMENT. OUR OWN READING OF CONVENTION ON TAXATION BETWEEN USA AND USSR SIGNED JUNE 20, 1973 (APPROVED BY SENATE JANUARY 29, 1976) LEADS US TO CONCLUDE THAT SOVIETS MAY LEVY TAXES ON INCOME FROM COMMERCIAL ACTIVITY ONLY OF THOSE U.S. FIRMS HAVING AN ACCREDITED REPRESENTATION OFFICE IN USSR. IN PRACTICE, TO OUR KNOWLEDGE, NO SUCH TAXES HAVE BEEN IMPOSED ON ANY AMERICAN FIRM DOING BUSINESS IN SOVIET UNION. WE MADE A UNCLASSIFIED

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QUICK POLL OF FOUR MAJOR U.S. FIRMS HAVING REPRESENTATION OFFICES IN MOSCOW -- INCLUDING TWO BANKS, ONE ACCOUNTING FIRM AND ONE LARGE COMPUTER CORPORATION. NONE OF THOSE POLLED WERE AWARE OF ANY INSTANCE WHERE SOVIET TAXES HAD BEEN IMPOSED ON ANY FOREIGN FIRM'S OPERATIONS IN USSR. ON BANK, HOWEVER, SIGNS ALL LOAN CONTRACTS OUTSIDE OF USSR TO AVOID QUESTION ENTIRELY. OTHER BANK USES TAX EXCLUSION

CLAUSE IN EACH OF ITS LOAN CONTRACTS WITH SOVIETS.
COMPUTER FIRM SIGNS ALL SALES CONTRACTS IN USSR (MOSCOW),
USES NO TAX EXCLUSION CLAUSE AND PAYS NO TAXES ON ITS
OPERATIONS WHATSOEVER.

3. WE ARE PREPARED TO SUBMIT A DIPLOMATIC NOTE TO THE
MINISTRY OF FOREIGN AFFAIRS MAKING INQUIRY ON THIS
QUESTION. IT IS QUITE POSSIBLE, HOWEVER, THAT SUCH A NOTE
MIGHT RESULT IN REPLY ASSERTING SOVIET AUTHORITY TO TAX
AT LEAST THOSE AMERICAN FIRMS HAVING ACCREDITED REPRESENT-
ATIONAL OFFICES HERE. HENCE WE ARE NOT EAGER TO SEND THE
NOTE UNLESS DEPARTMENT BELIEVES IT ESSENTIAL TO RESOLVE
THE QUESTION AT HAND. MATLOCK

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TAXES, INCOME TAXES, BUSINESS FIRMS
Control Number: n/a
Copy: SINGLE
Draft Date: 24 may 1978
Decaption Date: 20 Mar 2014
Decaption Note: 25 YEAR REVIEW
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978MOSCOW11630
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780219-0385
Format: TEL
From: MOSCOW
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780524/aaaaatxu.tel
Line Count: 75
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 4358c397-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: ONLY
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: ONLY
Reference: 78 STATE 106973
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2587875
Secure: OPEN
Status: NATIVE
Subject: TAXES ON WESTERN FIRM INCOME EARNED IN USSR
TAGS: EEWT, EGEN, ETRD, UR, US
To: STATE COM
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/4358c397-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014